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**FIRST GENERAL COUNSEL'S REPORT**

MUR: 6110 (Obama Victory Fund, *et al.*)  
DATE COMPLAINT FILED: October 27, 2008  
DATES OF NOTIFICATION: November 3, 2008  
and April 10, 2009  
LAST RESPONSE RECEIVED: April 29, 2009  
DATE ACTIVATED: March 23, 2009  
EXPIRATION OF SOL: 9/1/2013

**COMPLAINANT:**

Robert J. Kabel, on behalf of the District of  
Columbia Republican Committee

**RESPONDENTS:**

Obama Victory Fund and Andrew Tobias, in his  
official capacity as treasurer  
Democratic National Committee and Andrew  
Tobias, in his official capacity as treasurer  
Obama for America and Martin Nesbitt, in his  
official capacity as treasurer  
Square Root Sales  
Senate Realty Corporation  
M&A Development, LLC  
VIDA Fitness  
Urban Salons, Inc., d/b/a Bang Salon Spa

**RELEVANT STATUTES AND REGULATIONS:** 2 U.S.C. § 431(8)  
2 U.S.C. § 434(b)  
2 U.S.C. § 441b(a)  
11 C.F.R. § 100.52(d)  
11 C.F.R. § 102.17(c)  
11 C.F.R. § 110.1(e)  
11 C.F.R. § 110.1(g)  
11 C.F.R. § 114.1(j)  
11 C.F.R. § 114.2(d)  
11 C.F.R. § 114.2(f)

**INTERNAL REPORTS CHECKED:** Federal Disclosure Reports

**FEDERAL AGENCIES CHECKED:** None

10044260607

**I. INTRODUCTION**

This matter arises out of a complaint filed by Robert J. Kabel, on behalf of the District of Columbia Republican Committee, alleging that Obama for America ("OFA"), the principal campaign committee of Barack Obama for his 2008 presidential campaign, the Democratic National Committee ("DNC"), and the Obama Victory Fund ("OVF"), a joint fundraising committee that disburses its proceeds to the DNC and OFA, (together "Committees"), violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by accepting prohibited corporate in-kind contributions and failing to include the proper joint fundraising notice and disclaimers in solicitations for two fundraising events that took place in September 2008: the "Concert for Change" and an event held at a gym owned by VIDA Fitness in Washington, D.C. See 2 U.S.C. § 441b(a); 11 C.F.R. § 102.17(c).

**A. Concert for Change**

The Concert for Change (the "Concert") was a fundraising event that took place on September 20, 2008, at the Atlas Theater in Washington, D.C. According to one of the Concert's web pages, the Concert raised \$13,500 in contributions. The Complaint alleged that corporations sponsored the Concert and, therefore, that OFA, the DNC, and OVF knowingly accepted corporate contributions in violation of 2 U.S.C. § 441b(a), and the alleged sponsoring corporations made prohibited corporate contributions in violation of 2 U.S.C. § 441b(a) or facilitated contributions in violation of 11 C.F.R. § 114.2(f)(1). See Complaint at 3-4. The Complaint also alleged that the Concert's promotional materials constituted solicitations for joint fundraising activity and, therefore, OFA, the

1 DNC, and OVF violated 11 C.F.R. § 102.17(c) by failing to include joint fundraising  
2 notices in the solicitations. See Complaint at 4.

3 The businesses that allegedly made the prohibited in-kind corporate contributions  
4 are Square Root Sales, Senate Realty Corporation, and M&A Development, LLC  
5 ("Businesses"). As discussed in greater detail below, it appears that the Businesses,  
6 which were identified in some of the Concert's promotional materials as "sponsors" of  
7 the Concert, did not use their general treasury funds to pay the costs of the Concert.  
8 Rather, individuals affiliated with the Businesses used their personal funds to pay the  
9 costs of the Concert. Further, it is unclear whether the contributions, in fact, were sent to  
10 OVF, a joint fundraising committee. Accordingly, it is not clear whether joint  
11 fundraising notices were required. See 11 C.F.R. § 102.17(c). Moreover, OVF, OFA,  
12 and the DNC asserted in their responses that they were unaware of the Concert until the  
13 complaint was filed and that the Concert was not an official or authorized event. The  
14 Concert's organizer(s) were not identified in the complaint and there is no information  
15 suggesting that they formed an enterprise with ongoing activities or assets.

16 Consequently, we recommend that the Commission dismiss the allegation that  
17 that the Businesses violated the Act by making prohibited corporate contributions in  
18 connection with the Concert. We also recommend that the Commission dismiss the  
19 allegation that the Committees violated the Act based on the alleged receipt of prohibited  
20 corporate contributions from the Businesses in connection with the Concert.  
21 Additionally, we recommend that the Commission dismiss the allegations that the  
22 Committees violated 11 C.F.R. § 102.17(c) in connection with the Concert.

**B. VIDA Fitness/Bang Salon Spa Fundraiser**

The complaint also alleges that \_\_\_\_\_

\_\_\_\_\_, OVF accepted a prohibited corporate contribution. The complaint claims that VIDA Fitness and Bang Salon Spa ("Bang Salon") \_\_\_\_\_

\_\_\_\_\_ using their email accounts and a common list of their "customers and friends" to email invitations/solicitations to a September 26, 2008 OVF fundraiser that was held at a VIDA Fitness gym. Complaint at 2. Because it appeared that VIDA Fitness and Bang Salon never charged OVF for the use of the email list, the complaint argues that \_\_\_\_\_ OVF knowingly accepted, prohibited corporate contributions. *Id.* Bang Salon is the brand name for Urban Salons, Inc. For the sake of clarity, we refer to this respondent as "Bang Salon" throughout this report. In view of OVF's status as a joint fundraising committee, the complaint also alleged that the VIDA/Bang Salon emails should have contained a joint fundraising notice pursuant to 11 C.F.R. § 102.17(c). *See id.* at 2-3. The joint response from VIDA Fitness and Bang Salon was submitted by their founder and CEO, David von Storch, who is not a respondent in this matter.

**MUR 6110 (Obama Victory Fund, et al.)  
First General Counsel's Report**

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14 \_\_\_\_\_ In addition, because the available  
15 information suggests that neither the DNC nor OVF requested that von Storch use the  
16 VIDA/Bang Salon email list and von Storch used the list without the prior knowledge,  
17 approval, or authorization of the DNC or OVF, we recommend that the Commission find  
18 no reason to believe the allegation that OVF violated 2 U.S.C. § 441b(a) by knowingly  
19 receiving VIDA/Bang's contribution of the email list. Finally, because von Storch was  
20 an OVF fundraising volunteer that drafted the VIDA/Bang email invitation/solicitation  
21 without the knowledge or authorization of OVF and its lack of a joint fundraising notice  
22 was of limited impact, we recommend that the Commission dismiss the allegation that  
23 VIDA Fitness and Urban Salons, Inc., d/b/a Bang Salon Spa violated 11 C.F.R.

1 § 102.17(c) and recommend that the Commission find no reason to believe that OVF  
2 violated 11 C.F.R. § 102.17(c) based on the email solicitations sent by VIDA Fitness and  
3 Bang Salon.

4 **II. CONCERT FOR CHANGE**

5 **A. Factual Summary**

6 According to the complaint, unknown individuals promoted the "Concert for  
7 Change" by distributing flyers and signs near the Eastern Market Metro in Washington,  
8 D.C., and by establishing web pages that solicited contributions on the OFA and DNC  
9 websites. See Attachments 1-4. Some of the Concert's promotional materials, which  
10 were attached to the Complaint, state that the Businesses were "in-kind sponsors" of the  
11 Concert.

12 The Concert's unknown organizer(s) rented the Lang Theater, a space within the  
13 Atlas Theater at 1338 H Street, N.E., in Washington, D.C., that normally rents for \$6,000,  
14 and arranged for singer Steve Washington and the "Doug Elliot Orchestra" to perform.  
15 According to the Concert's promotional materials, the event included a cash bar and valet  
16 parking. The theater also normally requires event organizers to hire security guards and  
17 pay insurance. Sound equipment is not included in the cost of the theater and may also  
18 have been an additional expense. According to its website, www.aconcertforchange.org,  
19 the event's organizers were able to raise \$13,500, mostly through ticket sales at the  
20 theater. See Attachment 2 at 1. The available information does not indicate whether or  
21 how the theater box office collected the required contributor information and forwarded  
22 the contributions to OVF (or OFA or DNC).

1                   1.     Concert for Change Sign  
2

3             The complaint alleged that the Concert's organizer(s) distributed flyers and posted  
4 signs for the Concert in the Eastern Market area of Washington, D.C. Complaint at 3. A  
5 sign, submitted as an attachment to the complaint, describes the Concert as a "concert-  
6 cabaret fundraiser for The Obama Campaign" and provides a website address,  
7 www.aconcertforchange.org. See Attachment 1. The sign also states, below the official  
8 logo and web address of the Obama campaign (OFA), "FUNDRAISER." *Id.* The image  
9 of the OFA logo is of poor quality, however, as if it was a copy enlarged many times.  
10 Near the bottom of that panel, it states "Many thanks to our individual in-kind  
11 contributors (sponsors) affiliated with the following organizations" above the names of  
12 five people and the names and logos of the Businesses. *Id.* The first name is that of  
13 Chase Alan Moore along with the name and logo of "Square Root Sales" with text which  
14 states "real estate marketing, sales, and management." *Id.* The second set of names, Lisa  
15 Williams, Cher Castillo Freeman, and James Williams, is printed above the name and  
16 logo of Senate Realty Corporation. *Id.* The final name and logo combination is that of  
17 Anthony Washington and M&A Development. *Id.*

18                   2.     Obama For America Website  
19

20             The Concert's sign includes a website address for the Concert,  
21 www.aconcertforchange.org. That web address redirects visitors to a Concert webpage  
22 on the My Barack Obama ("MyBO") section of the OFA website. See Attachment 2.

1 The MyBO section of the OFA website encouraged and enabled Obama's supporters to  
2 create accounts, solicit votes and contributions, and organize events.<sup>1</sup>

3 At the top of the Concert's page on MyBO, there is a graphic that includes the  
4 portion of the Concert's sign that depicts the singer, states that it is a fundraiser for the  
5 "Obama Campaign," and lists the names and corporate logos of M&A Development,  
6 Senate Realty, and Square Root Sales under the Obama Campaign logo, Obama  
7 campaign website address, and the title "Individual in-kind contributor affiliations." *See*  
8 Attachment 2 at 1 (the Concert's OFA website containing the graphic) and Attachment 3  
9 (an enlargement of the graphic). No individuals' names are listed with the corporate  
10 names and logos in this graphic. The Concert's MyBO page also includes text that  
11 details the Concert's date, location, the phone number of the theater's box office, and the  
12 cost of tickets/donations. There is also a link for making contributions online that  
13 resembles a thermometer indicating the degree to which the Concert's fundraising goal  
14 has been met. It appears that the Concert for Change organizer(s) set a goal of \$15,000  
15 or \$30,000 (the Concert's web page inconsistently indicates both of these figures as the  
16 Concert's fundraising goal). *See* Attachment 2. The text describing the Concert for  
17 Change states that contributions will go to OVF, that "your donation is your ticket," and

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<sup>1</sup> The link from the main page of the Obama campaign website to its MyBO section states "ORGANIZE LOCALLY WITH OUR ONLINE TOOLS." An instructional video posted on the MyBO website teaches supporters how to use these tools. For example, by typing their address, supporters could obtain from OFA a list of their neighbors to contact, flyers to print and hand out, and the means to report back the results of their contacts with voters so that the campaign "can capture and use that information." Also, as the Concert's web page demonstrates, the MyBO site enabled supporters to create their own web page that solicited contributions, send email messages to their contacts, and organize their own events. The Obama supporters' organizing performance statistics (e.g., events attended, events organized, contributions raised) are recorded and displayed. For fundraising, the site enables the supporter to set a fundraising goal, email their contacts with a personal message soliciting contributions, and track the contributions they raise. The Concert's page on the MyBO site includes a title near the top of the page that states "Personal Fundraising." The MyBO site, including its fundraising section and instructional video, does not contain any warnings that contributions should not be raised using the funds or resources of sources prohibited by the Act, such as corporations, labor unions, and foreign nationals.



1 that the box office will have a record of "your" donation. *Id.* at 2. The minimum  
2 donation was \$35 although the suggested donation was \$100-500 and the maximum  
3 donation was \$4,600. *Id.* The page concludes with the statement "Many thanks to our  
4 generous individual in-kind contributing sponsors" and the same list of names and  
5 companies as in the sign described above. *Id.* at 3.

6 Consistent with the sign described above, which indicated that the Concert was a  
7 fundraiser to benefit OFA, the MyBO online contribution link on the Concert's webpage  
8 includes the text, "Obama '08," which suggests that contributions made through the  
9 website were made to OFA. See Attachment 2 at 1. However, the Concert's web page  
10 on MyBO also states that "100% of ALL donations go directly to the Obama Victory  
11 Fund," see *id.* at 2, the OFA/DNC joint fundraiser.<sup>2</sup> Thus, it is unclear whether the  
12 recipient of the contributions made through this web page was OFA or OVF. Moreover,  
13 if the recipient was OVF, there is no joint fundraising notice on the Concert's MyBO web  
14 page or the contribution page currently connected to the contribution link on the  
15 Concert's MyBO web page.<sup>3</sup> See 11 C.F.R. § 102.17(c).

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<sup>2</sup> On May 19, 2009, we mailed a letter to OFA asking it to clarify its response, specifically, which text on the Concert's MyBO web page was written by the Concert's organizer and which was written by OFA, and whether, at the time of the Concert, contributions made through OFA's MyBO web site were made to OFA, to OVF, or to another committee. OFA did not respond.

<sup>3</sup> Currently, a disclaimer on the MyBO site says that it is being maintained by "Organize for America," a project of the Democratic National Committee. The donation link on the website leads to a page stating, in part: "Our success required unprecedented resources, and the Democratic National Committee played a major role on the ground efforts that generated record turnout up and down the ticket . . . Please make a donation to the DNC to help fund the efforts it undertook in 2008." Organize for America is the group created within the DNC after the November 2008 election to continue the grassroots organizing begun by OFA and assume control OFA's list of 13 million email addresses. See Chris Cillizza, *Obama Announces Organizing for America* (January 17, 2009) found at <http://voices.washingtonpost.com/white-house/obama-announces-organizing-for.html>; see also Jim Rutenberg and Adam Nagourney, *Melding Obama's Web to a YouTube Presidency* (January 25, 2009) found at <http://www.nytimes.com/2009/01/26/us/politics/26grassroots.html>.

1           3.     Democratic National Committee Websites

2           The Concert's organizers also posted a web page on the PartyBuilder section of  
3 the DNC website, www.democrats.org/page/outreach/view/total/aconcertforchange,  
4 which solicited donations.<sup>4</sup> See Attachment 4. The text of the web page states a  
5 fundraising goal of \$30,000. See *id.* at 2. Like the Concert's web page on MyBO, the  
6 Concert's web page on the DNC web site also solicited online contributions. See *id.* The  
7 Concert's DNC web page, like the Concert's poster and web page on MyBO, stated that  
8 the Concert was a "fundraiser to support THE OBAMA CAMPAIGN" (emphasis in  
9 original) and bore the Obama campaign name, logo, and website address. See *id.*  
10 However, the Concert's DNC web page also stated that "100% of donations go directly to  
11 the Obama Victory Fund." See *id.* The Concert's DNC web page also stated that the  
12 "individual donors will be recognized by the DNC." See *id.* Thus, it is unclear whether  
13 the recipient of contributions made through this web page was the DNC or OVF.<sup>6</sup>  
14 Moreover, if the recipient was OVF, neither the Concert's DNC web page nor the  
15 contribution page currently connected to the link on the Concert's web page include a  
16 joint fundraising notice. See 11 C.F.R. § 102.17(c).

17           Like the poster and OFA MyBO web page described above, the Concert's DNC  
18 web page includes the same set of individual names and corporate names and logos  
19 below the statement: "Many thanks to our generous gift-in-kind sponsors." See

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<sup>4</sup> Like the MyBO section of the OFA website, PartyBuilder enables DNC supporters to create and manage a "personal fundraising homepage" for "keeping track of all personal fundraising."

<sup>6</sup> On May 19, 2009, we mailed a letter to the DNC asking it to clarify its response, specifically, which text on the Concert's web page on the DNC's Party Builder system was written by the Concert's organizer(s) and which was written by the DNC, and whether, at the time of the Concert, contributions made through the Concert's web page on the DNC's web site were made to the DNC, OVF, or to another committee. The DNC did not respond.

1 Attachment 4 at 2-3. The page also contains a graphic similar to that on the OFA MyBO  
2 web page that, in addition to stating the name of the musical entertainment at the Concert  
3 and the statement that it is a "fundraiser for The Obama Campaign," lists along its right  
4 side the names and corporate logos of M&A Development, Senate Realty, and Square  
5 Root Sales under the Obama Campaign logo, Obama campaign website address, and the  
6 title "In-Kind Sponsors." See Attachment 4 at 1 (the Concert's DNC website containing  
7 the graphic) and Attachment 5 (enlargement of the graphic). No individuals' names are  
8 listed with the corporate logos in this graphic. At the bottom of the webpage, it states  
9 "Copyright 1995-2008 DNC Services Corp.," "Paid for by the Democratic National  
10 Committee," the DNC address, and "This communication is not authorized by any  
11 candidate or candidate's committee."<sup>7</sup> See Attachment 4 at 3.

12 3. Businesses  
13

14 The Concert's promotional materials list the Businesses and affiliated individuals  
15 as "individual in-kind contribution sponsors," see Attachments 1-4, and one web page  
16 listed the Businesses as "In-Kind Sponsors" without the names of any individuals. See  
17 Attachment 5. The Businesses identified in the promotional materials are: (a) Square  
18 Root Sales, affiliated with Chase Alan Moore; (b) Senate Realty, affiliated with Lisa  
19 Williams, Cher Castillo Freeman, and James Williams; and (c) M&A Development,  
20 affiliated with Anthony Washington.

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<sup>7</sup> A separate Concert web page on the DNC PartyBuilder website similar in content to the Concert's OFA and DNC web pages described above is found at [www.democrats.org/page/event/detail/4vklp](http://www.democrats.org/page/event/detail/4vklp). See Attachment 6. It largely duplicates the content of the Concert's OFA and DNC web pages described above. The link on the page for making a contribution, in order to obtain a ticket to the Concert, directs the viewer to the Concert's DNC website described above. *Id.* This page lists Chase Moore as the host of the Concert. *Id.*

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*a. Square Root Sales*

A copy of the complaint was sent to the attention of Chase Alan Moore, who the promotional materials indicated was affiliated with "Square Root Sales" and who is also the registered agent for an entity called "Square Root, LLC." Square Root Sales Response at 1. In his response, Moore clarified that Square Root Sales is the name of a team of real estate agents at Senate Realty Corporation which was to be distinguished from Square Root, LLC, which had no connection to the Concert for Change. According to the website of Square Root Sales, Moore is the leader of the Square Root Sales team. The available information also indicates that one of the members of the Square Root Sales team is Steve Washington, the performer at the Concert.

According to Moore, neither the Square Root Sales team nor Square Root, LLC, made a contribution to the Concert. Square Root Sales Response at 1.<sup>8</sup> However, Moore stated that, using personal funds, he made an in-kind contribution within the limits of the Act to support the Concert. *Id.* Although a Concert web page on the DNC Party Builder web site lists Moore as the "host" of the Concert and provides his phone number, see Attachment 6 at 2, Moore claims that he was not an organizer of the Concert, did not produce the materials or invitations that were attached to the complaint, did not have an active role in distributing the invitations, and only participated, without any explanation as to how he participated, because the performer (Steve Washington) was a "personal friend." *Id.* at 1-2.

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<sup>8</sup> Chase stated in the Square Root Sales response that Square Root, LLC, "was not involved in any way with the" Concert. Square Root Sales Response at 1. However, in the next sentence, he wrote, "Square Root, LLC did make a contribution directly or in kind to the event." *Id.* Considering the clarity of the first sentence and the peculiar syntax of the second sentence, the inconsistency between these sentences appeared to be the result of a typographical error in the second sentence. We contacted Moore to clarify his response and he stated that the second sentence should have stated "Square Root, LLC did not make a contribution directly or in kind to the event."

**b. Senate Realty Corporation**

Senate Realty Corporation is incorporated in Washington, D.C. Lisa Williams is Senate Realty Corporation's principal broker and a co-owner; her co-owners are James C. Williams and Cher Castillo, the other two individuals whose names appear on the Concert for Change promotional materials with the Senate Realty Corporation name and logo.

Ms. Williams states that "her work" on the Concert for Change was performed as a volunteer acting in her personal capacity and not as a representative of Senate Realty. Senate Realty Corporation Response at 1. Further, she stated that the use of the Senate Realty logo was not meant to imply a corporate sponsorship of the event. *Id.* She also wrote that "I made an in-kind contribution, paid by a check drawn from my personal checking account, to pay for expenses related to the event." *Id.* According to the Senate Realty response, "No Senate Realty funds were used in connection with this in-kind contribution." *Id.*

**c. M&A Development, LLC**

A copy of the complaint was sent to M&A Development, LLC, to the attention of Anthony Washington. During a telephone conversation with Washington, he asserted that M&A Development, LLC, made no contribution, either by using its corporate treasury funds or through an in-kind contribution. He noted that M&A has no employees, revenues, or expenses. He also noted that the singer at the concert, Steve Washington, is his brother. Washington submitted a written response to the Complaint confirming that M&A Development, LLC, made no contributions to the Concert but that he, personally, contributed \$1,000 to the event. *See M&A Response at 1.*

**B. Analysis**

**1. Alleged Corporate Contributions**

Corporations, such as Senate Realty Corporation, are prohibited from making any contributions to candidates for federal office, including facilitating the making of a contribution by using its corporate resources to engage in fundraising activities in connection with any federal election. See 2 U.S.C. § 441b(a); 11 C.F.R. § 114.2(f)(1). A limited liability company ("LLC") such as M&A Development, LLC, is considered a corporation or a partnership under the Act depending on whether it elects to be treated by the Internal Revenue Service as a corporation or a partnership. See 11 C.F.R. § 110.1(g). If an LLC is considered to be a partnership, it may make contributions to a candidate for federal office subject to the limit in 2 U.S.C. § 441a(a)(1)(A), which was \$2,300 during the 2008 election cycle. See 11 C.F.R. § 110.1(e). A contribution by a partnership is attributed to the partnership and to each partner. *Id.* By contrast, the available information indicates that Square Root Sales is an unincorporated team of real estate agents working for Senate Realty Corporation. See Square Root Sales Response at 1. Thus, it does not appear to be a separate legal entity with its own resources.

It is not clear from the Concert's promotional materials whether the Concert's "sponsors" were the named individuals acting in their personal capacity, or were the businesses associated with those individuals. For instance, the Concert's sign states "Many thanks to our *individual* in-kind contributors (sponsors) affiliated with the following organizations" (emphasis added), and it lists the names of individuals above their affiliated corporate logos. See Attachment 1. The Concert's MyBO web page also thanks the Concert's "generous individual in-kind contribution sponsors" and lists the

1 same individual names and business names. *See* Attachment 2 at 2. The Concert's  
2 MyBO webpage also includes a graphic that identifies the Businesses as "Individual in-  
3 kind contributor affiliations" but does not list the individuals associated with the  
4 Businesses within the graphic. *See id.* at 1. The clearest indication that the Businesses  
5 may have made or facilitated contributions is found in the Concert's DNC webpage  
6 which includes a graphic that identifies the Businesses as the Concert's "In-Kind  
7 Sponsors" without any mention of individual contributors/sponsors. *See* Attachment 4  
8 at 1. At the bottom of the Concert's DNC webpage, it lists both individuals and the  
9 Businesses with which they are affiliated as "gift-in-kind sponsors." *See id.* at 2.

10 According to the responses, no corporate or other business entity's funds were  
11 used to pay for the costs of the Concert. Rather, individuals named in the promotional  
12 materials used their personal funds and volunteered in their individual capacity.<sup>9</sup> A  
13 related issue, however, is whether the inclusion of business entity names and logos in the  
14 Concert's promotional materials constituted a contribution by those businesses.

15 Although the use of the companies' names and logos in this matter may have  
16 constituted a contribution from the Businesses to the Committees, for the reasons set  
17 forth below, we recommend that the Commission dismiss the allegation that the  
18 Businesses violated the Act through contributions made to the Committees.

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<sup>9</sup> A search of the FEC disclosure database did not reveal any disclosures by the Committees indicating that they received contributions from the individuals named in the Concert's promotional materials. The response of Senate Realty Corporation indicated that it attached to its response an "in-kind contribution form" demonstrating that Lisa Williams disclosed her personal in-kind contribution to OFA. On April 22, 2009, Ms. Williams submitted an undated form which bears the OFA logo and the disclaimer that it was "Paid for by Obama For America." The form appears to have been designed to allow OFA supporters to notify OFA about in-kind contributions. The form submitted by Ms. Williams states that she made a \$900.87 in-kind contribution comprising a September 29, 2008, payment to reserve the Atlas Theater for the Concert. We intend to send a letter to OFA to make sure the committee is aware of the in-kind contributions made by Ms. Williams and the other individual sponsors so the committee may make the appropriate disclosures.

1           A contribution includes anything of value made by any person for the purpose of  
2 influencing a Federal election. 2 U.S.C. § 431(8)(A)(i). The term "anything of value"  
3 encompasses any goods or services provided without charge or at less the usual and  
4 normal charge unless otherwise specifically exempted. See 11 C.F.R. § 100.52(d)(1).  
5 Corporate names, trademarks, and service marks can be valuable corporate resources, and  
6 corporations may invest substantial resources in choosing a trademark, developing its  
7 value, and defending it. A trademark is a limited property right in a "particular word,  
8 phrase or symbol." See *New Kids on the Block v. News America Pub., Inc.*, 971 F.2d  
9 302, 306 (9th Cir. 1992). Trade names are also protected when they acquire a "secondary  
10 meaning" in that they "symbolize a particular business." *Madrigal Audio Labs., Inc. v.*  
11 *Cello, Ltd.*, 799 F.2d 814, 822 (2d Cir. 1986).

12           A corporation's name and trademark, therefore, are things of value owned by the  
13 corporation. Because the Act prohibits corporations from contributing anything of value  
14 to committees, or using their resources to facilitate contributions to committees, a  
15 donation by a corporation of its trademark to a committee (for example, to use on a  
16 solicitation for contributions to a committee or to indicate the corporation's support for a  
17 candidate) would constitute an impermissible corporate contribution.

18           Accordingly, the Commission has previously considered corporate names and  
19 trademarks to be things of value. In MUR 5578 (Wetterling for Congress), the complaint  
20 alleged that a committee received a corporate contribution when it allegedly used a  
21 corporation's trademark (America's Most Wanted) in a campaign ad. See MUR 5578  
22 Complaint at 1-2. The Commission approved OGC's recommendation to find no reason  
23 to believe that Wetterling for Congress violated the Act for several reasons, including that



1 the committee paid for all advertising expenses, the advertisement did not include or  
2 suggest a corporate endorsement, and the fact that the alleged corporate logo used in the  
3 campaign ad at issue was not the alleged contributing corporation's logo. See MUR 5578  
4 Certification of Commission's Actions on February 22, 2006; First General Counsel's  
5 Report at 4-8.

6 In Advisory Opinion 2007-10 (Reyes), the Commission concluded that a  
7 committee holding a fundraising golf tournament could not give recognition to its  
8 contributors by posting signs at particular holes with the contributors' names and job  
9 titles as well as the name, trademark, or service mark of their employers. See AO 2007-  
10 10 (Reyes) at 3. The AO requestor stated that its inclusion of the names, trademarks, and  
11 service marks of its contributors' corporate employers was intended to encourage  
12 contributions. *Id.* at 2. The Commission concluded that corporate names, trademarks,  
13 and service marks "are corporate resources" and, because neither a corporation nor its  
14 agents may use the corporation's resources to facilitate the making of contributions to a  
15 federal political committee, the proposed activity would violate the Act. *Id.* at 2-3. In  
16 AO 2007-10 (Reyes), the Commission distinguished AO 1984-43 (Brunswick) and AO  
17 1978-77 (Aspin), in which the Commission concluded that a candidate's endorsers may  
18 be identified with their corporate positions in campaign-funded advertisements, noting  
19 that neither involved the use of corporate resources to facilitate contributions and that  
20 both predated the Commission's corporate facilitation regulations. *Id.* at 3; see also  
21 *Corporate and Labor Organization Activity; Express Advocacy and Coordination with*

*Candidates Explanation and Justification*, 60 Fed. Reg. 64260, 64274-75 (Dec. 14, 1995).<sup>10</sup>

In contrast to the circumstances in *Wetterling*, the Committees did not pay for the expenses associated with the Concert's promotional materials, some of the Concert's promotional materials suggest a corporate endorsement, and the names and logos used in the Concert's promotional materials were those of the Businesses. Although the corporate names and logos in the Concert's solicitations were things of value, the value of the names and logos of these particular businesses is likely insubstantial, and the fundraising event was relatively modest in size. The Concert raised \$13,500 and was attended by less than 200 people. Under these circumstances, further use of the Commission's resources for an investigation is not warranted. See *Heckler v. Chaney*, 470 U.S. 821, 831 (1985). Accordingly, we recommend that the Commission dismiss the allegation that the Businesses contributed to the Committees in violation of 2 U.S.C. § 441b(a). Because Senate Realty is a corporation and M&A Development may be a corporation or a partnership, and the Concert's promotional materials listed these businesses as well as their owners as sponsors, we recommend that the Commission caution these entities concerning the Act's limits and prohibitions.

## 2. Alleged Receipt of Corporate Contributions

The complaint alleged that the Concert's promotional materials, including web pages soliciting contributions on the OFA and DNC websites, included the logos of three

---

<sup>10</sup> The Commission has previously considered a specific regulation applicable to the use of corporate logos when promulgating regulations in response to the Supreme Court's decision in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986). The Commission considered alternative drafts and ultimately was unable to reach a majority decision. See *Corporate and Labor Organization Activity; Express Advocacy and Coordination with Candidates Explanation and Justification*, 60 Fed. Reg. 64260, 64268 (December 14, 1995). Nevertheless, as discussed above, and as observed by the Commission in MUR 5578 and AO 2007-10 after the 1995 rulemaking, the use of a corporate name or logo is something of value within the meaning of 2 U.S.C. § 441b(a).

1 businesses identified as "individual in-kind contributors (sponsors)," implying that the  
2 Democratic National Committee, Obama Victory Fund, and Obama for America  
3 knowingly accepted prohibited corporate contributions. Complaint at 3-4. Neither a  
4 federal candidate nor a political committee may knowingly accept a contribution from a  
5 corporation. *See* 2 U.S.C. § 441b(a); 11 C.F.R. § 114.2(d). None of the Committees  
6 disclosed receipt of contributions from the Businesses. *See* 2 U.S.C. § 434(b)(3).

7       The DNC and OVF state in their response that neither the "DNC nor OVF ever  
8 hosted a 'Concert for Change' fundraising event" and that, although the Concert's  
9 materials suggest it would benefit the DNC or OVF, the Concert was not an official,  
10 authorized, or sanctioned event, and it was conducted without the cooperation or approval  
11 of the DNC or OVF. DNC/OVF Response at 3. According to the DNC and OVF,  
12 promotion of the event on the DNC and OFA websites "does not transform an otherwise  
13 unauthorized event into an official, sanctioned DNC or OVF event." *Id.* The DNC stated  
14 that it does not "pre-screen or otherwise review" what appears on its PartyBuilder  
15 platform, which was used to promote the Concert. *Id.* Therefore, the DNC and OVF  
16 assert, they did not knowingly accept prohibited corporate contributions. *Id.*

17       Similarly, OFA stated in its response that it never hosted a "Concert for Change,"  
18 had no knowledge of the Concert prior to receiving the complaint, and that the Concert  
19 was not an official or authorized OFA event, despite it being publicized on the OFA  
20 website. OFA Response at 2-3. "Because the event was conducted entirely without the  
21 Committee's express or implied authorization, the organizers of the event were not acting  
22 as [OFA's] agents" and, therefore, OFA did not knowingly accept a corporate

1 contribution "and cannot otherwise be held liable for the actions of individual  
2 volunteers[.]" *Id.* at 3.

3       OFA and DNC encouraged their supporters to engage in fundraising and provided  
4 the necessary tools to do so, apparently without warnings to make sure fundraising efforts  
5 complied with the Act, including that corporate resources could not be used to pay  
6 fundraising costs. As noted above, the available information indicates that none of the  
7 Businesses contributed money directly to the Committees or paid for the costs of the  
8 Concert. The only contributions made by the Businesses appear to have been in-kind  
9 contributions resulting from the use of the company names and logos to solicit  
10 contributions to the Committees. Nevertheless, given the modest size of the fundraising  
11 event, which raised only \$13,500 and was attended by less than 200 people, and the fact  
12 that the value of the company names and logos is not likely substantial in this case, we do  
13 not believe further action by the Commission is warranted to investigate whether the  
14 Committees knowingly accepted or received in-kind contributions that they failed to  
15 disclose and that violated the Act's contribution limitations or source prohibitions. *See*  
16 *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

17       Accordingly, we recommend that the Commission dismiss the allegation that  
18 Obama for America, the Democratic National Committee, or the Obama Victory Fund,  
19 and their respective treasurers acting in their official capacities, violated the Act based on  
20 the alleged receipt of contributions from Square Root Sales, Senate Realty Corporation,  
21 and M&A Development, LLC.

1                   3.     Alleged Failure to Include Joint Fundraising Notices  
2

3             The complaint alleges that the Concert's promotional materials solicit  
4 contributions to OVF, which is a joint fundraising committee. Complaint at 3. However,  
5 some of the Concert's promotional materials appear to solicit contributions to OVF,  
6 while others solicit contributions to OFA. For example, the Concert's sign states that the  
7 Concert is a fundraiser for "The Obama campaign," i.e., OFA, and included the OFA  
8 logo and website address. See Attachment 1. The Concert also has a webpage that  
9 solicits contributions on the OFA website, repeats the statements on the sign, states  
10 separately that the Concert was a fundraiser for the Obama Campaign, and includes a link  
11 to the OFA online contribution webpage. See Attachment 2. Further, the link to the OFA  
12 contribution page incorporates the OFA logo under the heading "Contribute Now." See  
13 *id.* at 1. However, text on the Concert's OFA and DNC websites also states "100%" of  
14 the contributions "go directly to the Obama Victory Fund." See Attachment 2 at 2 and  
15 Attachment 4 at 2.

16             Solicitations for joint fundraising activity must include certain information  
17 pursuant to 11 C.F.R. § 102.17(c), including the names of all committees participating in  
18 the joint fundraising activity, the allocation formula to be used to distribute joint  
19 fundraising proceeds, a statement informing contributors that they may designate  
20 contributions for a particular participant in the joint fundraising activity notwithstanding  
21 the allocation formula, and that the formula may change to avoid the making and receipt  
22 of excessive contributions. The DNC/OVF and OFA state in their responses that, for the  
23 same reasons they cannot be held liable for accepting corporate contributions, i.e., the  
24 Concert was not an authorized event, they cannot be held liable for the failure to include

1 joint fundraising notices on the Concert's promotional materials. DNC/OVF Response  
2 at 3; OFA Response at 2-3.

3 The Concert's online contributions were made through contribution pages on the  
4 OFA and DNC websites. There is no indication that the Concert's organizers had any  
5 control over the recipient(s) of online contributions made on the OFA and DNC websites.  
6 Moreover, although the Concert's organizers created the Concert's sign and wrote some  
7 of the text which appeared on part of the Concert's OFA and DNC webpages, such as the  
8 name, date, and location of the event, it nonetheless appears that the content of the OFA  
9 and DNC websites related to the making of online contributions does not appear to have  
10 been under the control of the Concert's organizers. For example, the contribution link on  
11 OFA's website included the OFA logo under the word "Contribute" and both the OFA  
12 and DNC contribution links transferred users to contribution pages that do not appear to  
13 have been under the control of the Concert's organizer(s). See Attachment 7 (OFA  
14 contribution page) and Attachment 8 (DNC contribution page). It also does not appear  
15 that persons using the MyBO tools of the OFA website and the PartyBuilder tools of the  
16 DNC website had any control over where online contributions made on those sites were  
17 ultimately directed. Therefore, if the OFA and/or DNC solicited contributions to the  
18 OVF on their websites without including a joint fundraising notice, OFA and DNC may  
19 have violated 11 C.F.R. § 102.17(c).

20 One indication that contributions made on the OFA and DNC websites were  
21 directed to OVF is found in the Declaration of Thomas Petrillo, director of a fundraising  
22 council of the DNC, which is attached to the DNC/OVF response. See Declaration of  
23 Thomas Petrillo, attached to the DNC/OVF Response at Exhibit 1, ¶ 1. In his

1 Declaration, Petrillo states that an invitation attached to his Declaration was the template  
2 used for all OVF fundraisers. See *id.* at ¶¶ 5-6. The second page of the invitation states  
3 the allocation formula for contributions to the OVF, specifically, that the first \$2,300 of  
4 each contribution would be allocated to OFA and the next \$28,500 would be allocated to  
5 the DNC. See DNC/OVF Response at Exhibit 1, Exhibit A, second page. The invitation  
6 also directs contributors to make contributions online at  
7 <http://donate.barackobama.com/page/contribute/DCSJP>. *Id.* That web address currently  
8 redirects visitors to the same online donation page,  
9 <https://donate.barackobama.com/page/contribute/dnc08main>, as the Concert's MyBO  
10 webpage on the OFA website. Because official solicitations direct contributors to make  
11 online contributions to OVF through the OFA website, it is possible that the Concert's  
12 organizers were correct when they indicated that contributions made on the OFA website  
13 would benefit OVF.<sup>7</sup> In that case, a joint fundraising notice would have been required.  
14 See 11 C.F.R. § 102.17(c).

1           Nevertheless, a preliminary issue is whether, in fact, there was joint fundraising  
2 activity that required joint fundraising notices, i.e., whether the Concert's web pages on  
3 the OFA and DNC websites solicited contributions to OVF. In order to assess whether  
4 the Concert's organizers had mistakenly stated that contributions would benefit OVF, we  
5 invited DNC/OVF and OFA to clarify their responses as to whether contributions made  
6 on the DNC and OFA websites benefitted OVF. Neither the DNC/OVF nor OFA  
7 responded to our invitations.

8           An investigation would be necessary to ascertain whether contributions solicited  
9 on the Concert's web pages on the OFA and DNC websites were made to a joint  
10 fundraising committee and, therefore, joint fundraising notices were required. However,  
11 the available information indicates that the concert raised only \$1,780 through online  
12 contributions using its webpage on OFA's MyBO website, \$155 through its pages on the  
13 DNC PartyBuilder website, and that "most" of the contributions made in connection with  
14 the Concert, totaling \$13,500, were collected at the theater box office.<sup>12</sup> See  
15 Attachment 2 at 1. An investigation, therefore, would not be an efficient use of the  
16 Commission's limited resources based upon the amount at issue in this matter.  
17 Consequently, we recommend that the Commission dismiss the allegation that the  
18 Democratic National Committee, the Obama Victory Fund, and Obama for America, and  
19 their respective treasurers in their official capacities, violated 11 C.F.R. § 102.17(c) by  
20 failing to include joint fundraising notices in the Concert's solicitations as a matter of  
21 prosecutorial discretion. See *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

---

<sup>12</sup> We have no information as to what the Concert's organizers did with the contributions collected at the Atlas Theater box office.

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### **III. VIDA FITNESS/BANG SALON FUNDRAISER**

### A. Factual Summary

**and**

**Bang Salon is the trade name of Urban Salons, Inc. On September 19, 2008, VIDA**

**Fitness and Bang Salon sent identical emails to 20,000 of their “customers and friends”**

**that invited them to an official OVF fundraiser and solicited contributions to OVF. See**

**Complaint at 1; [REDACTED] The email list was one that the two**

**businesses shared and the fundraiser was held on September 26, 2008, in Washington,**

**D.C., at the site of a VIDA Fitness gym and a Bang Salon. See**

**DNC/OVF Response at 1. OVF also sent 500 invitations to the event. See DNC/OVF**

**Response at 1-2.**

Furthermore, the complaint

**alleges that in view of OVF's status as a joint fundraising committee, the email**

**solicitations failed to include joint fundraising notices as required by 11 C.F.R. §**

**102.17(c)(2)(i).**

1 \_\_\_\_\_ In their responses, \_\_\_\_\_  
2 \_\_\_\_\_ the DNC/OVF claim that von Storch made the decision to send the  
3 invitations/solicitations using the VIDA/Bang email list without consulting with Tom  
4 Petrillo of the DNC's Finance Department, with whom he had made the arrangements for  
5 the use of the VIDA gym for the OVF fundraiser. See \_\_\_\_\_ DNC/OVF Response at 2.

6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_ OVF has disclosed this contribution.

9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_ Those wishing to RSVP were directed to a contribution page on  
13 OFA's website, <https://donate.barackobama.com/page/contribute/DCSJP>. The  
14 invitation/solicitation sent by von Storch did not provide any other means of submitting  
15 an RSVP or making a contribution. According to the VIDA/Bang Response, the second  
16 page of Exhibit B to the Von Storch Declaration is a copy of the web page to which that  
17 link led at the time of the VIDA/Bang Fundraiser. See VIDA Bang Response at 3 and  
18 Exhibit B to the Von Storch Declaration (attached to the VIDA/Bang Response as  
19 Exhibit 1). The contribution webpage includes the following disclaimer:

20 The first \$2,300 of each contribution from an individual will be allocated to  
21 Obama for America and will be considered designated for the general election.  
22 The next \$28,500 of each contribution from an individual will be allocated to the  
23 Democratic National Committee. Any contributor may designate his or her  
24 contribution for a particular participant. (Participants are Obama for America and  
25 the DNC). The allocation formula above may change if any contributor makes a  
26 contribution that, when allocated, would exceed the amount that the contributor  
27 may lawfully give to either participant.

1  
2 *See* Exhibit B to the Von Storch Declaration.

3  
4 The DNC and OVF deny knowingly accepting a contribution as a result of von  
5 Storch's use of the VIDA and Bang email list. *See* DNC/OVF Response at 2. They note  
6 that they did not request or receive the email list itself and von Storch, a volunteer  
7 fundraiser, used the VIDA/Bang email list without prior approval or authorization. *Id.*  
8 The DNC and OVF further assert that they did not request that von Storch send the email,  
9 that von Storch lacked the actual authority, express or implied, to solicit contributions on  
10 behalf of the DNC or OVF, that he was not an agent of the DNC or OVF. *Id.*  
11 Consequently, they assert they should not be held liable for his actions. *Id.*

12 **B. Analysis**

13  
14 1. Use of the VIDA/Bang Email List

15 A corporation is prohibited from making a contribution in connection with a  
16 federal election under the Act. *See* 2 U.S.C. § 441b(a); 11 C.F.R. § 114.2(b). In  
17 addition, neither a federal candidate nor a political committee may knowingly accept a  
18 contribution from a corporation. *See* 2 U.S.C. § 441b(a); 11 C.F.R. § 114.2(d). The  
19 Commission's regulations further provide that a corporation may not facilitate the  
20 making of a contribution by using its corporate resources to engage in fundraising  
21 activities for any federal election. *See* 11 C.F.R. § 114.2(f)(1). The regulations provide  
22 examples of conduct that constitute corporate facilitation, including the use of a corporate  
23 customer list, to send invitations to individuals not within the restricted class to  
24 fundraisers without advance payment. *See* 11 C.F.R. § 114.2(f)(2).

25 Corporations such as VIDA Fitness and Bang Salon, which do not have separate  
26 segregated funds, are permitted to solicit contributions to be sent directly to candidates,

1 but those solicitations are limited solely to its restricted class, consisting of its  
2 stockholders and executive or administrative personnel, and their families. 2 U.S.C.  
3 § 441b(b)(2)(A); 11 C.F.R. §§ 114.1(j) and 114.2(f). Moreover, corporate facilitation  
4 may result if the corporation uses its list of customers, who are not within the restricted  
5 class, to solicit contributions or distribute invitations to fundraisers without advance  
6 payment for the fair market value of the list. See 11 C.F.R. § 114.2(f)(2)(i)(C).

7 Thus, when VIDA fitness and Bang Salon (through David von Storch, their  
8 founder and CEO) emailed a list of 20,000 VIDA Fitness and Bang Salon customers and  
9 friends to distribute the OVF fundraiser invitation without advance payment, VIDA  
10 Fitness and Bang Salon solicited outside their restricted classes and facilitated the making  
11 of contributions to OVF. While Mr. von Storch reimbursed VIDA after the complaint  
12 was filed, such reimbursement may mitigate but not vitiate a violation. \_\_\_\_\_

13 \_\_\_\_\_  
14 \_\_\_\_\_  
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22 In their Response, the DNC and OVF largely reiterate the facts and arguments  
23 \_\_\_\_\_ The \_\_\_\_\_ DNC/OVF responses also

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1 assert that neither the DNC nor OVF requested that von Storch use the VIDA/Bang email  
2 list and his use of the list was done without the prior knowledge, approval, or  
3 authorization of the DNC or OVF. *See* \_\_\_\_\_  
4 DNC/OVF Response at 2-3. We have no information suggesting otherwise.  
5 Consequently, we recommend that the Commission find no reason to believe that the  
6 Obama Victory Fund and Andrew Tobias, in his official capacity as treasurer, violated  
7 2 U.S.C. § 441b(a) in connection with the VIDA Fitness/Bang Salon event.

8 2. Joint Fundraising Notices

9 The invitations and solicitations sent to the 20,000 email addresses on the  
10 VIDA/Bang email list included solicitations for contributions to OVF, a joint fundraising  
11 committee. Solicitations for joint fundraising activity must include certain information  
12 pursuant to 11 C.F.R. § 102.17(c), including the names of all committees participating in  
13 the joint fundraising activity, the allocation formula to be used to distribute joint  
14 fundraising proceeds, a statement informing contributors that they may designate  
15 contributions for a particular participant in the joint fundraising activity notwithstanding  
16 the allocation formula, and that the formula may change to avoid the making and receipt  
17 of excessive contributions.

18 Although the email drafted by von Storch did not contain the required joint  
19 fundraising notice, the only means of making the contribution solicited in the email was  
20 to use the link included in the email. *See* Exhibit A to Von Storch Declaration.  
21 According to the VIDA/Bang response, the web link in the VIDA/Bang email  
22 invitation/solicitation directed contributors to a joint OVF-DNC webpage created  
23 specifically for the fundraiser where they could make an online contribution that included

1 the required joint fundraising notice.<sup>13</sup> VIDA/Bang Response at 2-3. We note that the  
2 response of the DNC/OVF also includes a copy of the OVF invitation/solicitation for the  
3 fundraiser which, unlike the VIDA/Bang email, includes a second page with a complete  
4 joint fundraising notice. See OVF/DNC Response at 2 and Exhibit A to Petrillo  
5 Declaration.

6 Under the circumstances, including that David von Storch was an OVF  
7 fundraising volunteer who, according to \_\_\_\_\_ OVF, drafted an email soliciting  
8 contributions without the knowledge or authorization of OVF, and that a joint fundraising  
9 notice was included in both the official OVF invitation/solicitation and the joint OVF-  
10 DNC webpage to which the VIDA/Bang unauthorized solicitation directed contributors,  
11 we recommend that the Commission dismiss the allegation that VIDA Fitness and Urban  
12 Salons, Inc., d/b/a Bang Salon Spa violated 11 C.F.R. § 102.17(c) and find no reason to  
13 believe that the Obama Victory Fund violated 11 C.F.R. § 102.17(c) with regard to the  
14 email solicitations sent by VIDA Fitness and Bang Salon. See *Heckler v. Chaney*, 470  
15 U.S. 821, 831 (1985).

16 **IV. RECOMMENDATIONS**

- 17 1. Dismiss the allegation that Square Root Sales violated 2 U.S.C. § 441b(a);  
18  
19 2. Dismiss the allegation that Senate Realty Corporation violated 2 U.S.C.  
20 § 441b(a), and send a cautionary letter;  
21  
22 3. Dismiss the allegation that M&A Development, LLC, violated 2 U.S.C.  
23 § 441b(a), and send a cautionary letter;  
24  
25 4. Dismiss the allegation the Obama Victory Fund and Andrew Tobias, in his  
26 official capacity as treasurer, violated the Act based on the alleged receipt of

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<sup>13</sup> At this time, that link re-directs contributors to  
<https://donate.berackobama.com/page/contribute/dnc08main>, which appears to be a page on the OFA  
website (now part of the DNC) and does not include a joint fundraising notice.

- 1 contributions from Square Root Sales, Senate Realty Corporation and M&A  
2 Development, LLC;  
3  
4 5. Dismiss the allegation that the Democratic National Committee and Andrew  
5 Tobias, in his official capacity as treasurer, violated the Act based on the  
6 alleged receipt of contributions from Square Root Sales, Senate Realty  
7 Corporation and M&A Development, LLC;  
8  
9 6. Dismiss the allegation that Obama for America and Martin Nesbitt, in his  
10 official capacity as treasurer, violated the Act based on the alleged receipt of  
11 contributions from Square Root Sales, Senate Realty Corporation and M&A  
12 Development, LLC;  
13  
14 7. Dismiss the allegation that the Obama Victory Fund and Andrew Tobias, in  
15 his official capacity as treasurer, violated 11 C.F.R. § 102.17(c) in connection  
16 with the Concert for Change;  
17  
18 8. Dismiss the allegation that the Democratic National Committee and Andrew  
19 Tobias, in his official capacity as treasurer, violated 11 C.F.R. § 102.17(c) in  
20 connection with the Concert for Change;  
21  
22 9. Dismiss the allegation that Obama for America and Martin Nesbitt, in his  
23 official capacity as treasurer, violated 11 C.F.R. § 102.17(c) in connection  
24 with the Concert for Change;  
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36 13. Find no reason to believe that the Obama Victory Fund and Andrew Tobias, in  
37 his official capacity as treasurer violated 2 U.S.C. § 441b(a) in connection  
38 with the VIDA Fitness/Bang Salon event;  
39  
40 14. Dismiss the allegation that VIDA Fitness violated 11 C.F.R. § 102.17(c);  
41  
42 15. Dismiss the allegation that Urban Salons, Inc., d/b/a Bang Salon Spa violated  
43 11 C.F.R. § 102.17(c);  
44  
45 16. Find no reason to believe that OVF violated 11 C.F.R. § 102.17(c) with  
46 respect to the solicitations for the VIDA Fitness/Bang Salon fundraiser;

MUR 6110 (Obama Victory Fund, et al.)  
First General Counsel's Report

1  
2 17. Approve the attached Factual and Legal Analyses;

3  
4 18. Approve the appropriate letters; and

5  
6 19. Close the file in MUR 6110.  
7  
8

9 Thomasenia P. Duncan  
10 General Counsel

11  
12  
13 8/26/07  
14 Date

15  
16 BY:   
17 Ann Marie Terzaken  
18 Associate General Counsel  
19 for Enforcement



20  
21   
22 Mark Allen  
23 Assistant General Counsel

24  
25   
26 Michael A. Columbo  
27 Attorney

28 Attachments:

- 29 1. Concert for Change Sign  
30 2. Concert for Change OFA Web Page  
31 3. Enlarged Graphic from Concert for Change OFA Web Page  
32 4. Concert for Change DNC PartyBuilder Web Page  
33 5. Enlarged Graphic from Concert for Change DNC Web Page A  
34 6. Concert for Change Additional DNC PartyBuilder Web Page  
35 7. OFA Online Contribution Webpage  
36 8. DNC Online Contribution Webpage  
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www.obama08.com


# FUNDRAISER

Saturday, Sept 20









TAKE ONE



TAKE ONE



Many thanks to our individual in-kind contributors (persons affiliated with the following organizations)

Chris Allen Moore	Lisa Williams
	Chap Carillo Freeman
	James Williams
	
	
	



Saturday, September 20 - 8:00 pm





AMERICAN CANCER SOCIETY

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http://my.barackobama.com/people/eric/ericconcernchange



GO

GO

Personal Fundraising



Individuals included  
in this fundraiser's affiliation

SENATE

HOUSE

A Concert for Change

Most attendees showed up at the door so the results will not show up here. Our final fundraising tally topped off at about \$13,600 just shy of our goal. But the average donation was over \$70. Many thanks to all of you who took part

Log In

A CONCERT FOR CHANGE

Contribute Now

RAISED: \$13,600

FROM: 38 people

GOAL: \$15,000

% OF GOAL

100%

75%







50%


25%

0%

Google updated every 5 minutes

Provide your own source material

Discussions -       Discussions not available on <http://my.barackobama.com>

 <http://www.barackobama.com/people/eric>

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[http://www.barechase.com/page/about/faq.htm#faq](#)

Join us at the historic Alice Performing Arts Center for...

**WASH: A concert-cabaret fundraiser to support THE OBAMA CAMPAIGN**

**WEDNES: Saturday, September 20**

**DOORS: open at 7:00 pm (come early for cash bar)**

**SHOW: starts at 8:00 pm**

**VENUE: The Alice Performing Arts Center 1333 H Street NE, Washington DC**

**BOX OFFICE: (202) 369-7863**

**TICKETS: Your donation is your ticket.**

**Minimum Individual Donation/Ticket — \$35**

**Suggested Individual Donation — \$100-\$500**

**Maximum Individual Donation — \$4,000**

**Donations of \$100+ will receive two (2) drink tickets**

**Our Total Goal = \$30,000**

**100% of ALL donations go directly to the Obama Victory Fund**

**All individual donors will be recognized by the Obama Victory Fund**

**INSTRUCTIONS:**

1) Click on the thermometer to go the donation portal

2) Donations - [http://www.barechase.com/page/about/faq.htm#faq](#) Donations not available on [http://www.barechase.com/](#)

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[About](#)
[Contact](#)
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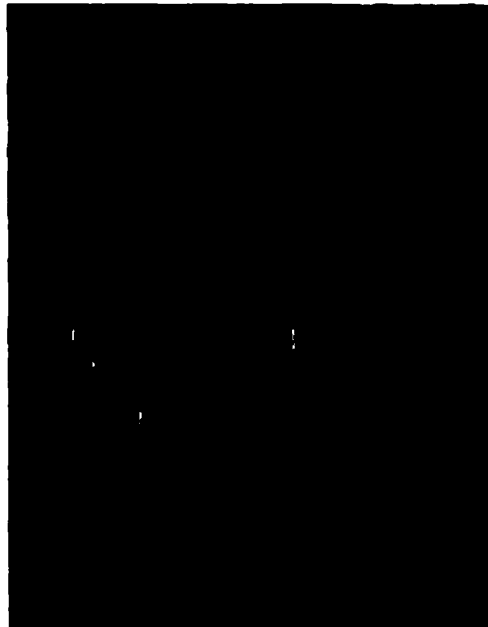
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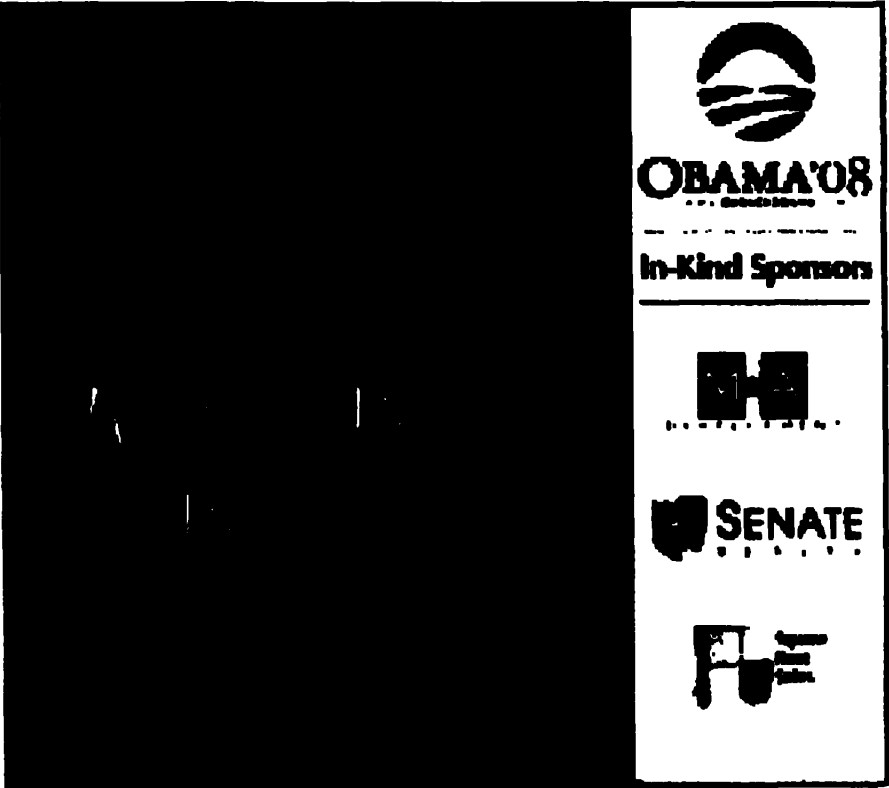
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## INDEX





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Back Home Forward Stop Search ☆ Favorites

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The Details

## A Concert for Change (Campaign)

Join us at the historic Atlas Theatre for WHAT a concert-cum-fundraiser to support The Obama Campaign WHEN Saturday, September 20, 2008, 8:00 pm WHATS Alike Performing Arts Center (seats parking available) (The Long Theatre 240 seats, space is limited) 1323 N Street NE Washington DC Box Office (202) 399-7933 TICKETS (minimum individual donation..... \$20) (suggested individual donation..... \$100-500) (maximum individual donation..... \$4500) Donations of \$100+ will automatically enter you into the drawing for a chance to win a trip to the Obama Victory Fund. All individual donors will be recognized by the DPC. Many thanks to our generous gift-in-kind sponsors [Anthony Washington, M & A Development] [Chase Alan Moore, Square Root Studios/Service Realty Corp] [Cher L. Castillo Freeman, Service Realty Corp] [James Williams, Service Realty Corp] [Lisa Williams, Service Realty Corp] To register for event please visit <http://www.democrats.org/page/outreach/view.html?eventid=10044260649>  
Times Saturday, September 20 from 8:00 PM - 10:00 PM  
Hosts Chase Moore  
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# A Concert for Change (Campaign)

Join us at the historic Atlas Theatre for WHAT a concert-culture fundraiser to support The Obama Campaign! Saturday, September 20, 2008, 8:00 pm. WHITES Atlas Performing Arts Center (seating available) [The Long Theatre 240 seats, space is limited] 1300 H Street NE Washington DC Box Office (202) 399-7993 TICKETS (minimum individual donation..... \$25) (suggested individual donation..... \$100-\$200) (maximum individual donation..... \$4400) Donations of \$100+ will automatically enter into the drawing. 100% of donations go directly to the Obama Victory Fund.) All individual donors will be recognized by the DCC. Many thanks to our generous off-in-kind sponsors [Anthony Washington, Jr & A Development] [Chase Bank Means Square East Sales/Service Realty Corp] [Char L. Gaudin Freeman, Seneca Realty Corp] [Darius Williams, Seneca Realty Corp] [Lisa Williams, Seneca Realty Corp] To register for event please visit <http://www.democrats.org/page/eubready/view/total/assnconferchange>

Times: Saturday, September 20 from 8:00 PM - 10:00 PM

Mark: Chase Means

Contact: 202.346.7404

Phone: The Atlas Performing Arts Center (Washington, DC)

Location: 1300 H St. NE  
The Long Theatre  
Washington, DC 20002

Maps:

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to contribute for ticket go to: <http://www.democrats.org/page/eubready/view/total/assnconferchange>

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employer \_\_\_\_\_

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Source: 1) This contribution is not made from the general treasury funds of a corporation, labor organization or national bank. 2) This contribution is not made from the treasury of an entity or person who is a federal contractor. 3) This contribution is not made from the funds of a political action committee. 4) This contribution is not made from the funds of an individual registered as a federal lobbyist or a foreign agent, or an entity that is a federally registered lobbying firm or foreign agent. 5) The funds I am donating are not being provided to me by another person or entity for the purpose of making this contribution.

Process Contribution

Your contribution is not tax-deductible as a charitable contribution for Federal income tax purposes.

Federal Election law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year. Your contribution will be used in connection with Federal elections and is subject to the limits and prohibitions of the Federal Election Campaign Act.